

# House File 2161 - Introduced

HOUSE FILE 2161

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 558)

## A BILL FOR

- 1 An Act relating to the requirements for a sex offender
- 2 to be granted a modification of sex offender registry
- 3 requirements.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 692A.128, Code 2022, is amended to read  
2 as follows:

3 **692A.128 Modification.**

4 1. A sex offender ~~who is on probation, parole, work release,~~  
5 ~~special sentence, or any other type of conditional release~~ may  
6 file an application in district court seeking to modify the  
7 registration requirements under this chapter.

8 2. An application shall not be granted unless all of the  
9 following apply:

10 ~~a. The date of the commencement of the requirement to~~  
11 ~~register occurred at least two years prior to the filing of~~  
12 ~~the application for a tier I offender and five years prior to~~  
13 ~~the filing of the application for a tier II or III offender.~~  
14 A period of time has elapsed since the date of the offender's  
15 initial registration as follows:

16 (1) (a) Except as otherwise provided in subparagraph  
17 division (b), a tier I offender initially registered at least  
18 ten years prior to the filing of the application.

19 (b) A tier I offender who was under twenty years of age at  
20 the time the offender committed a violation of section 709.4,  
21 subsection 1, paragraph "b", subparagraph (2), subparagraph  
22 division (d), initially registered at least five years prior to  
23 the filing of the application.

24 (2) A tier II or tier III offender initially registered at  
25 least twenty-five years prior to the filing of the application.

26 b. The sex offender has successfully completed all sex  
27 offender treatment programs that have been required.

28 ~~c. A risk assessment has been completed and the sex offender~~  
29 ~~was classified as a low risk to reoffend. The risk assessment~~  
30 ~~used to assess an offender as a low risk to reoffend shall~~  
31 ~~be a validated risk assessment approved by the department of~~  
32 ~~corrections.~~ The sex offender has successfully completed  
33 any period of probation, parole, special sentence, or other  
34 supervised release for the offense requiring registration.

35 d. The sex offender is not incarcerated when the application

1 is filed.

2 ~~e. The director of the judicial district department~~  
3 ~~of correctional services supervising the sex offender, or~~  
4 ~~the director's designee, stipulates to the modification,~~  
5 ~~and a certified copy of the stipulation is attached to the~~  
6 ~~application.~~

7 (1) A tier I offender must not have been convicted of any  
8 criminal offenses other than simple misdemeanor violations of  
9 chapter 321 or local traffic ordinances for the ten-year period  
10 immediately preceding the filing of the application.

11 (2) A tier II or tier III offender shall not have  
12 been convicted of any criminal offenses other than simple  
13 misdemeanor violations of chapter 321 or local traffic  
14 ordinances for the twenty-five-year period immediately  
15 preceding the filing of the application.

16 3. The application shall be filed in the sex offender's  
17 county of principal residence.

18 4. Notice of any application shall be provided to the  
19 county attorney of the county of the sex offender's principal  
20 residence, the county attorney of any county in this state  
21 where a conviction requiring the sex offender's registration  
22 occurred, and the department. The county attorney where the  
23 conviction occurred shall notify the victim of an application  
24 if the victim's address is known.

25 5. The court may, but is not required to, conduct a hearing  
26 on the application to hear any evidence deemed appropriate by  
27 the court. The court may modify the registration requirements  
28 under this chapter by reducing the registration period.

29 ~~6. A sex offender may be granted a modification if the~~  
30 ~~offender is required to be on the sex offender registry as a~~  
31 ~~result of an adjudication for a sex offense, the offender is~~  
32 ~~not under the supervision of the juvenile court or a judicial~~  
33 ~~district judicial department of correctional services, and the~~  
34 ~~department of corrections agrees to perform a risk assessment~~  
35 ~~on the sex offender. However, all other provisions of this~~

~~1 section not in conflict with this subsection shall apply to the~~  
~~2 application prior to an application being granted except that~~  
~~3 the sex offender is not required to obtain a stipulation from~~  
~~4 the director of a judicial district department of correctional~~  
~~5 services, or the director's designee.~~

6     7. 6. If the court modifies the registration requirements  
7 under this chapter, the court shall send a copy of the order to  
8 the department, the sheriff of the county of the sex offender's  
9 principal residence, any county attorney notified in subsection  
10 4, and the victim, if the victim's address is known.

11                                   EXPLANATION

12                   The inclusion of this explanation does not constitute agreement with  
13                   the explanation's substance by the members of the general assembly.

14     This bill changes the requirements for a sex offender  
15 to be granted a modification of the sex offender registry  
16 requirements. Under current law, a sex offender must be on  
17 probation, parole, work release, special sentence, or any  
18 other type of conditional release to file an application for a  
19 modification. The bill allows any sex offender on the Iowa sex  
20 offender registry to file an application for a modification.

21     Under current law, a sex offender will only be granted a  
22 modification by a court if the date of the commencement of  
23 the requirement to register occurred at least two years prior  
24 to the filing of the application for a tier I offender and  
25 five years prior to the filing of the application for a tier  
26 II or III offender. The bill changes these requirements and  
27 provides that a tier I offender must have initially registered  
28 at least 10 years prior to the filing of the application,  
29 except for a tier I offender who was under 20 years of age  
30 at the time the offender committed sexual abuse in the third  
31 degree under certain circumstances pursuant to Code section  
32 709.4(1)(b)(2)(d), who must have initially registered at least  
33 five years prior to the filing of the application. A tier II or  
34 tier III offender must have initially registered at least 25  
35 years prior to the filing of the application.

1 Under current law, a risk assessment approved by the  
2 department of corrections must be completed and an offender  
3 must be classified as a low risk to reoffend in order to be  
4 granted a modification. The bill strikes this requirement and  
5 allows a court to grant a modification if the offender has  
6 successfully completed any period of probation, parole, special  
7 sentence, or other supervised release for the offense requiring  
8 registration.

9 The bill provides that a tier I offender must not have  
10 been convicted of any criminal offenses other than simple  
11 misdemeanor violations of Code chapter 321 or local traffic  
12 ordinances for the 10-year period immediately preceding  
13 the filing of the application in order to be granted a  
14 modification. The bill provides that a tier II or tier III  
15 offender shall not have been convicted of any criminal offenses  
16 other than simple misdemeanor violations of Code chapter 321  
17 or local traffic ordinances for the 25-year period immediately  
18 preceding the filing of the application.

19 The bill allows a court to reduce the period in which a sex  
20 offender is required to register. The bill strikes current law  
21 allowing a sex offender to be granted a modification if the  
22 offender is required to be on the sex offender registry as a  
23 result of an adjudication for a sex offense, the offender is  
24 not under the supervision of the juvenile court or a judicial  
25 district judicial department of correctional services, and the  
26 department of corrections agrees to perform a risk assessment  
27 on the sex offender.

28 Under current law, the director of the judicial district  
29 department of correctional services supervising the sex  
30 offender, or the director's designee, must stipulate to the  
31 modification. The bill strikes this requirement.